

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT KEITH ERNST,

Plaintiff,

v.

DAVID FRANCES RAMOS, et al.,

Defendants.

No. 2:21-cv-0813 DAD AC P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff a state prisoner proceeding pro se, has filed a motion for an extension of time to respond to discovery requests and another motion for a temporary restraining order or preliminary injunction. ECF Nos. 82, 83.

Plaintiff requests an extension of time to respond to defendant Mirafior's requests for discovery. ECF No. 82. In the motion, plaintiff states that on November 22, 2024, he received a letter from Kathryn Baldwin, defendant Mirafior's attorney, asking about discovery requests she sent on September 23, 2024. Id. at 1. However, plaintiff never received the requests, and the letter from Baldwin was processed as regular mail instead of legal mail and did not have plaintiff's correct address. Id. He asserts that the mailroom is continuing to harass him by denying and delaying his mail and requests ninety days to "address this mailroom situation." Id. at 2-3. The motion for an extension of time asks the court to reconsider his request for a temporary restraining order or preliminary injunction, and is accompanied by another motion for

1 a temporary restraining order or preliminary injunction which seeks to enjoin mailroom staff from  
2 interfering with plaintiff's mail. ECF No. 82 at 3; ECF No. 83. Plaintiff's motion for an  
3 extension of time will be granted to the extent he will be given additional time to submit  
4 responses to defendant Miraflor's discovery requests if he has not done so already.<sup>1</sup> The motion  
5 will otherwise be denied, and for the reasons set forth below, it will be recommended that the  
6 motion for a temporary restraining order and preliminary injunction be denied.

7 "A plaintiff seeking a preliminary injunction must establish [(1)] that he is likely to  
8 succeed on the merits, [(2)] that he is likely to suffer irreparable harm in the absence of  
9 preliminary relief, [(3)] that the balance of equities tips in his favor, and [(4)] that an injunction is  
10 in the public interest." Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008) (citations  
11 omitted). The standard for issuing a temporary restraining order is essentially the same as that for  
12 issuing a preliminary injunction. Stuhlbarg Int'l Sales Co. v. John D. Brush & Co., 240 F.3d 832,  
13 839 n.7 (9th Cir. 2001) (stating that the analysis for temporary restraining orders and preliminary  
14 injunctions is "substantially identical").

15 Plaintiff's motions for an extension of time and for a temporary restraining order or  
16 preliminary injunction largely repeat the allegations of his prior motion for a temporary  
17 restraining order or preliminary injunction and his objections to the recommendation that that  
18 motion be denied. Compare ECF Nos. 67, 75 with ECF Nos. 82, 83. The only new allegation is  
19 plaintiff's assertion that he has experienced irreparable damage because the fact that he did not  
20 receive the discovery requests Baldwin sent means that they must have been delivered to some  
21 other inmate, putting his life in danger. ECF No. 82 at 4; ECF No. 83 at 2, 9-10. However,  
22 plaintiff's claim of irreparable damage is based solely on speculation, and he provides no  
23 evidence to show his mail was given to another inmate. As the undersigned found in  
24 recommending denial of plaintiff's previous motion, the mailroom at the prison has confirmed  
25 that going forward, plaintiff will not be required to exchange indigent envelopes in order to mail  
26 documents to the non-Attorney General's Office counsel in this case as long as he complies with

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27 <sup>1</sup> Defendant Miraflor filed a motion to compel (ECF No. 80), which she has since withdrawn  
28 (ECF No. 85), indicating that plaintiff may have already served his responses.


1 the other requirements for submitting confidential mail. ECF No. 74 at 2 (citing ECF No. 70 at  
2 4). Plaintiff has provided no evidence that he has complied with the requirement that he  
3 specifically identify the counsel that any additional envelopes are being requested for when he  
4 puts in his requests. For these reasons, and those set forth in the September 18, 2024 findings in  
5 recommendations, which are adopted herein by reference, it will be recommended that the motion  
6 for a temporary restraining order or preliminary injunction be denied.

7 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for an extension of time  
8 (ECF No. 82) is GRANTED in part. The motion is granted to the extent plaintiff shall have thirty  
9 days from the service of this order to respond to defendant Miraflor's discovery requests, if he has  
10 not done so already. The motion is otherwise DENIED.

11 IT IS FURTHER RECOMMENDED that plaintiff's motion for a temporary restraining  
12 order or preliminary injunction (ECF No. 83) be DENIED.

13 These findings and recommendations are submitted to the United States District Judge  
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days  
15 after being served with these findings and recommendations, any party may file written  
16 objections with the court and serve a copy on all parties. Such a document should be captioned  
17 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
18 objections shall be served and filed within fourteen days after service of the objections. The  
19 parties are advised that failure to file objections within the specified time may waive the right to  
20 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: January 13, 2025

22   
23 ALLISON CLAIRE  
24 UNITED STATES MAGISTRATE JUDGE  
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